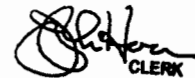


UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

**FILED**

SEP 16 2015

  
CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DANIEL YELLOW HORSE,

Defendant.

4:15-CR-40036-LSC

REPORT AND RECOMMENDATION

This matter came before the court for a change of plea hearing on Wednesday, September 16, 2015. The Defendant, Daniel Yellow Horse, appeared in person and by his counsel, the Federal Public Defender, while the United States appeared by its Special Assistant United States Attorney.

The defendant consented in open court to the change of plea before a United States magistrate judge. This court finds that the defendant's consent was voluntary and upon the advice of counsel. The government also consented to the plea hearing before a magistrate judge. Further, the parties waived their right to object to the report and recommendation.

Defendant has reached a plea agreement wherein he intends to plead guilty to Counts 1 and 3 of the Superseding Indictment which charges him with Threatening a United States Judge in violation of 18 U.S.C. §§ 115(a)(1)(B) and 2. At the hearing, the defendant was advised of the nature of the charges to which the defendant would plead guilty and the maximum penalties

applicable for each count, specifically: 10 years' imprisonment; a \$250,000 fine; 3 years' supervised release; and a \$100 special assessment.

Upon questioning the defendant personally in open court, it is the finding of the court that the defendant is fully competent and capable of entering an informed plea, that the defendant is aware of the nature of the charges and the consequences of the plea, and that his pleas of guilty to Count 1 and Count 3 of the Superseding Indictment are knowing and voluntary pleas supported by independent bases in fact containing each of the essential elements of the offenses. The defendant's guilty pleas to Count 1 and Count 3 of the Superseding Indictment are accepted. It is my report and recommendation that the defendant be adjudged guilty of those offenses.

DATED this 16th day of September, 2015.

BY THE COURT:



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VERONICA L. DUFFY  
United States Magistrate Judge